

market. As demonstrated in Section III, broadcasters and newspaper publishers compete today in a highly diverse marketplace in which many of the vast array of alternative information providers also serve as alternative vehicles for advertising. Just as the very availability of an alternate media "voice" serves to ensure diversity, the availability of a wide array of alternative outlets for advertising serves to offset any concern as to the current "market power" of any particular outlet. For example, cable advertising revenues, including local ad revenues, are growing rapidly, as are advertising revenues for magazines, direct mail services, and weekly and other specialized newspapers.¹⁴⁰

The presence of those alternative outlets for advertising provides ample protection against any prospect of "market dominance" by newspapers or broadcast stations. Given the number of competing broadcast outlets in most markets and the rapidly expanding array of alternative media and advertising outlets, there is no reason to believe that ownership of broadcast stations by newspaper publishers, to the same extent such stations may be owned by any other party, is likely to have an appreciable impact on economic competition.

Accordingly, NAA submits, the FCC should not concern itself with any arbitrary "cap" on market power. To the extent any issue in this regard may arise in the context of a particular transaction, of course, it can be addressed by the Department of Justice or the Federal Trade Commission, the agencies charged with responsibility for administration of the antitrust laws and best equipped to undertake the appropriate

¹⁴⁰See NAA Facts About Newspapers at 10.

market analysis. Duplicative analyses of "market power," on the other hand, are both costly and time-consuming and add an unnecessary step to Commission consideration of a particular transaction.

G. An Appropriate Presumptive Waiver Standard Would Include Relief for Failing Stations and Newspapers, and Permit the Continued Common Ownership of Grandfathered Facilities.

Finally, the Commission seeks comment on whether there are other "objective criteria" besides the number of independent voices or market size that warrant a waiver, "such as saving a failing station or newspaper, [or] reacquisition of a media property by a former owner."¹⁴¹ Although NAA opposes the imposition of any "special circumstances" test over and above an objective "voices" test, NAA agrees that there are situations in which a waiver may be warranted even though the minimum voices test is not met.

First, as the Commission recognized in the New York Post decision, it is hard to imagine a situation in which the public interest would be served by allowing a newspaper to fail or a broadcast station to go silent. Accordingly, NAA supports granting waivers to preserve failing stations or newspapers. Similarly, as the Commission also has found, there is no appreciable impact on diversity in allowing a former owner to reacquire a previously-owned facility.¹⁴² Again, NAA submits, such a return to the status quo ante would not be contrary to the public interest. In addition,

¹⁴¹ Notice of Inquiry, 11 FCC Rcd at 13013.

¹⁴² See Field Communications Corp., 65 FCC2d 959 (1977).

NAA submits that allowing the sale of grandfathered combinations to a single buyer -- which similarly does not alter the existing level of diversity in the market -- is in no way contrary to the public interest and should be allowed. Finally, the Commission should allow for consideration of other public interest factors under a "case-by-case" approach in circumstances that do not qualify for a presumptive waiver.

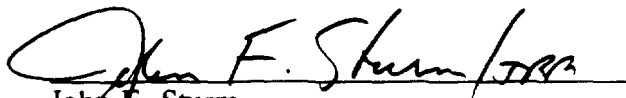
VI. CONCLUSION

For the reasons set forth above, NAA submits that the Commission should give broadcasters and newspaper publishers the freedom to compete effectively with cable and other multichannel providers, as well as with the host of new print and electronic sources of news, information and entertainment. Relief from the outdated cross-ownership restriction not only will help preserve broadcast stations and newspapers as viable voices, but will spur their evolution into more diversified and innovative competitors in today's technologically advanced multimedia marketplace.

Accordingly, NAA submits, the Commission should promptly initiate rulemaking proceedings to repeal the newspaper/broadcast cross-ownership prohibition now set forth in Section 73.3555(d) of the Rules. In the interim, in this proceeding, the FCC should announce a strong presumptive waiver policy for newspaper/radio cross-ownership, based upon the existence of a specified number of competing media voices in the market and taking into account the enormous growth in the number and variety of competing information providers in the two decades since the cross-ownership ban was adopted. Adoption of such a waiver policy will serve as a crucial

initial step toward the long overdue elimination of this anachronistic and unnecessary restriction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John F. Sturm", written over a horizontal line.

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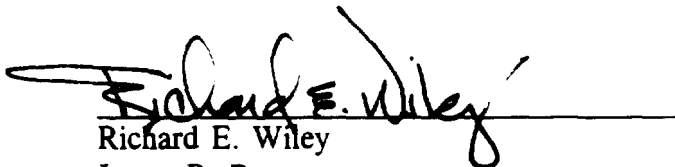
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